

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 601, “Application for License,” Chapter 602, “Classes of Driver’s Licenses,” Chapter 604, “License Examination,” Chapter 605, “License Issuance,” Chapter 607, “Commercial Driver Licensing,” Chapter 610, “Release of Computerized Driver’s License and Nonoperator’s Identification Card Records,” Chapter 611, “Driver’s Privacy Protection—Driver’s License and Nonoperator’s Identification Card,” Chapter 615, “Sanctions,” and Chapter 640, “Financial Responsibility,” Iowa Administrative Code.

Item 1 proposes a change to one of the acceptable social security number verification documents allowed when a person applies for a new or duplicate driver’s license or nonoperator’s identification card. This amendment is consistent with the change in paragraph 601.5(2)“b” in Item 2. Item 2 proposes changes to the acceptable primary and secondary documents needed to prove age and identity when a person applies for a new or duplicate driver’s license or nonoperator’s identification card. The changes in Item 2 assist in fraud prevention by eliminating the acceptance of out-of-state driver’s licenses and IDs as primary proof of identity, although those may continue to be used as secondary proof. The changes in Item 2 also update terms used by the federal government for immigration status documents. Items 3, 4, 5 and 9 propose amendments to remove references to a marriage license. The Department will accept a marriage certificate as proof that the marriage actually occurred and the name has been legally changed. Items 6 to 8 propose changes to the rules concerning driving test requirements. The proposed changes allow a person with an out-of-state driver’s license expired less than one year to apply for an Iowa driver’s license without taking the driving test. Currently, the rules require a person with an out-of-state license to take a driving test when an out-of-state license is expired within the past six months. Item 10 proposes a change to the definition of “air brake system” on a commercial motor vehicle to establish conformity with federal guidelines. Item 11 updates the citation to 49 Code of Federal Regulations (CFR), Part 383. The amendments to 49 CFR, Part 383, Commercial Driver’s License Standards; Requirements and Penalties, that have become final and effective since the 2004 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

Part 383 (FR Vol. 71, No. 11, Page 2897, 1-18-06)

The Federal Motor Carrier Safety Administration (FMCSA) adopts as final and without change its interim regulations which implement Section 4140 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The regulations specify that a driver who passed FMCSA-approved knowledge and skills tests for a Commercial Driver’s License (CDL) school bus endorsement before September 30, 2002, has met the requirements for a school bus endorsement.

Parts 350, 375, 383, 384, 385, 386, 390 and 395 (FR Vol. 72, No. 128, Page 36760, 7-5-07)

The FMCSA adopts as final certain regulations required by SAFETEA-LU. These regulations govern state compliance plans under the Motor Carrier Safety Assistance Program; withholding of federal-aid highway funds based on state noncompliance with the commercial driver’s license program; intrastate operations of interstate motor carriers; civil penalties and disqualifications for violations of out-of-service orders; civil penalties for denial of access to records and property and for violations of statutes and regulations governing hazardous materials transportation; exemption from the federal hours-of-service regulations for operators of commercial motor vehicles engaged in certain defined operations; exemption of drivers of propane service or pipeline emergency vehicles during emergency conditions requiring immediate response; and interstate transportation of household goods.

Parts 365, 369, 381-393, 395 and 397 (FR Vol. 72, No. 189, Page 55697, 10-1-07)

The FMCSA adopts a final rule to make technical corrections throughout 49 Code of Federal Regulations Subtitle B, Chapter III. This rule does not make any substantive changes to the FMCSA regulations.

Item 12 proposes new definitions for Chapter 610. Item 13 proposes to rescind a rule concerning copying files to computer tape cartridges. Item 14 proposes amendments relating to certified driving records. Items 12 to 14 make changes to the terms used in Chapter 610 and require persons requesting a certified abstract of an operating record to complete a form and provide a legible photocopy of the person's driver's license or nonoperator's identification card to the Department. Item 15 proposes to amend the definition of "personal information" in Chapter 611. Item 16 proposes to correct a form number. Items 17 to 19 propose to make changes relating to 2008 Iowa Acts, chapter 1172, section 14 [2009 Iowa Code section 272D.8] and require the Department to suspend a person's driver's license when noncompliance notification is received from the Iowa Department of Revenue. Items 20 and 22 propose to allow SR-22 lift notices to indicate that future proof of insurance is on file with the state rather than list specific motor vehicle information. This change eliminates the need for customers to continually update their SR-22 lift documents each time they have a new SR-22 filing in regard to coverage for specific motor vehicles. Item 21 proposes to eliminate completion of a driver improvement interview when a driver who is subject to graduated driver licensing is convicted of a moving traffic violation or is involved in a contributive accident. However, a new proposed rule is added to allow the Department to implement any or all of the following actions: suspension, safety advisory letter, additional restrictions, vision screening, knowledge examination or driving examination.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than May 12, 2009.

A meeting to hear requested oral presentations is scheduled for Thursday, May 14, 2009, at 2 p.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments are intended to implement Iowa Code chapters 272D, 321 and 321A.

Proposed rule-making actions:

ITEM 1. Amend paragraph **601.5(1)“c”** as follows:

c. Document issued by the Internal Revenue Service or a state tax agency. Form W-2 ~~and tax forms~~ form completed by the ~~taxpayer~~ employer is acceptable.

ITEM 2. Amend subrule 601.5(2) as follows:

601.5(2) Proof of age and identity. An applicant shall submit one primary document and one secondary document from the following lists as proof of age and identity. The documents must be issued in the United States unless otherwise specified.

a. Acceptable primary documents include:

(1) ~~Photo~~ An Iowa photo driver's license ~~or a certified copy of the license. The license cannot be expired for more than one year.~~

~~(2) Photo An Iowa photo identification card or a certified copy of the card. The agency that issued the card must be the same agency that issues drivers' licenses in the state of issuance. The card cannot be expired for more than one year.~~

(3) Birth certificate issued in the United States ~~or Canada~~. It must be ~~an original or~~ a certified copy, have the stamp or raised seal of the issuing authority, and be issued by the state bureau of vital statistics, the state board of health, or a comparable agency. A hospital-issued certificate is not acceptable.

(4) ~~Immigration and Naturalization~~ United States Citizenship and Immigration Service document from the following list:

1. Certificate of Naturalization (N-550, N-570 or N-578).
2. Certificate of Citizenship (N-560, N-561 or N-645).
- ~~3. —Northern Mariana Card (I-551).~~
- ~~4. —American Indian Card (I-551).~~
- ~~5. —U.S. Citizen Identification Card (I-179 or I-197).~~
- ~~6. 3. —Permanent Resident Alien Card (I-151, I-551, AR-3, AR-3A or AR-103).~~
- ~~7. —Temporary Resident Identification Card (K-688).~~
- ~~8. —Nonresident Alien Canadian Border Crossing Card (I-185 or I-586).~~
9. 4. Record of Arrival and Departure (I-94) with attached photo that is stamped "Temporary Proof of Lawful Permanent Resident."
- ~~10. 5. "Processed for I-551" stamp in a valid foreign passport.~~
- ~~11. —Permanent Resident Re-entry Permit (I-327).~~
- ~~12. —Refugee Travel Document (I-571).~~
6. Travel Document indicating Permit to Re-enter (I-327) or Refugee Travel Document (I-571).
- ~~13. 7. Record of Arrival and Departure (I-94) in a Certificate of Identity.~~
14. 8. Employment Authorization Card (I-688A, I-688B, or I-766).
- ~~15. 9. Record of Arrival and Departure (I-94) stamped "Refugee," "Parole," "Parolee," or "Asylee."~~
16. 10. Record of Arrival and Departure (I-94) coded Section 207 (Refugee), Section 208 (Asylum), Section 209 (Refugees), Section 212d(5) (Parolee), HP (Humanitarian Parolee), or PIP (Public Interest Parolee).

~~(5) —Court order. It must contain the full name, date of birth, and court seal. This does not include an abstract of criminal or civil conviction.~~

~~(6) (5) Military identification card. This does not include a military dependent identification card.~~

~~(7) (6) Valid United States passport issued by the United States or Canada. If the passport is Canadian, the appropriate Immigration and Naturalization Service document is also required.~~

~~(8) —Identification card issued by Canadian Department of Indian Affairs. A card issued by the United States Bureau of Indian Affairs is not acceptable. A tribal identification card is not acceptable.~~

~~(9) (7) Inmate Descriptor Inquiry, Client Information Inquiry or Offender Snapshot document issued by the Iowa department of corrections. The document must contain the full name and date of birth and be notarized.~~

b. Acceptable secondary documents include:

- (1) Any primary document.
- (2) Bureau of Indian Affairs or Indian Treaty Card. A tribal identification card is not acceptable.
- (3) Photo driver's license or state-issued photo identification card that has not been expired for more than one year.
- (4) Court order that does not contain the applicant's date of birth but does contain the full name.
- (5) Foreign birth certificate. It must be translated by an approved translator, if translation is necessary.
- (6) Military discharge, military orders or separation papers.
- (7) Military dependent identification card.
- (8) Employer identification card.
- (9) Health insurance card.

(10) Document issued by the Internal Revenue Service or a state tax agency. Form W-2 ~~and tax forms form~~ completed by the ~~taxpayer are not~~ employer is acceptable.

(11) Marriage ~~license or~~ certificate.

~~(12) Medical records from a doctor or hospital, original or authenticated.~~

~~(13)~~ (12) Gun permit.

~~(14)~~ (13) Pilot's license.

~~(15)~~ (14) School record or transcript. It must be certified.

~~(16)~~ (15) Social security card issued by the Social Security Administration. A metal version of the card is not acceptable.

~~(17)~~ (16) Social insurance card issued by the Canadian government.

~~(18)~~ (17) Photo student identification card.

~~(19) Vehicle certificate of title. A vehicle registration is not acceptable.~~

~~(20)~~ (18) Voter registration card.

~~(21)~~ (19) Welfare card.

~~(22)~~ (20) Prison release document.

~~(23)~~ (21) Parent or guardian affidavit. The parent or guardian must appear in person, submit proof of the parent's or guardian's age and identity, and submit a certified or notarized affidavit regarding the child's identity. This applies only to minors.

c. The department may require additional documentation if the department believes that the documentation submitted is questionable or if the department has reason to believe that the person is not who the person claims to be.

ITEM 3. Amend paragraph **601.5(3)“c”** as follows:

c. Marriage ~~license or~~ certificate.

ITEM 4. Amend rule 761—601.6(321) as follows:

761—601.6(321) Parental consent. An unmarried person under the age of 18 who applies for an Iowa license shall submit parental consent and birth date confirmation on Form 430018, “Parents Consent Form.” The parent's signature must be notarized; however, in lieu of notarization it may be witnessed by a ~~driver~~ driver's license examiner or clerk. No exception shall be made for parental absence from Iowa. A married person under the age of 18 shall submit ~~documentation of marriage~~ an original or certified copy of a marriage certificate to avoid submission of the consent form.

This rule is intended to implement Iowa Code section 321.184.

ITEM 5. Amend paragraph **602.2(3)“c”** as follows:

c. The form must be signed by the licensee's parent or guardian. However, the parent's or guardian's signature is not required if the licensee is married and the original or a certified copy of the marriage ~~license~~ certificate is in the licensee's possession when the licensee is driving during the hours to which the waiver applies.

ITEM 6. Amend paragraph **604.31(2)“e”** as follows:

e. The applicant is applying for a Class C Iowa driver's license that permits unaccompanied driving and has an equivalent out-of-state license that is valid or has expired within the past ~~six months~~ year.

ITEM 7. Amend paragraph **604.31(2)“f”** as follows:

f. The applicant is applying for a Class D Iowa driver's license and has an equivalent out-of-state license that is valid or has expired within the past ~~six months~~ year.

ITEM 8. Amend paragraph **604.31(2)“g”** as follows:

g. The applicant is applying for a Class M driver's license or a motorcycle endorsement and has an equivalent out-of-state Class M driver's license or motorcycle endorsement that is valid or has expired within the past ~~six months~~ year.

ITEM 9. Amend subparagraph **605.11(2)“c”(3)** as follows:

(3) Marriage ~~license or~~ certificate.

ITEM 10. Amend rule ~~761—607.3(321)~~, definition of “Air brake system,” as follows:

“*Air brake system*” means a system that uses air as a medium for transmitting pressure or force from the driver’s control to the service brake. “Air brake system” ~~does not include a system that uses compressed air or vacuum only to assist the driver in applying muscular force to hydraulic, electrical or mechanical components~~ shall include any braking system operating fully or partially on the air brake principle.

ITEM 11. Amend paragraph ~~607.10(1)“c,”~~ introductory paragraph, as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2004~~ 2008):

ITEM 12. Adopt the following new definitions in rule ~~761—610.2(321)~~:

“*Certified abstract of operating record*” means the same as described in Iowa Code subsection 321A.3(1).

“*Highly restricted personal information*” means an individual’s photograph or image, social security number, or medical or disability information.

“*Person*” means an individual, organization or entity.

“*Personal information*” means the same as defined in 761—Chapter 611.

“*Recipient*” means an individual who has obtained a certified abstract of operating record from the department.

ITEM 13. Rescind and reserve rule ~~761—610.3(321)~~.

ITEM 14. Amend rule 761—610.4(321) as follows:

761—610.4(321,321A) Certified driver abstract of operating records.

610.4(1) In accordance with Iowa Code section 321A.3, a printed, certified ~~driver~~ abstract of the operating record of an individual is available. The record includes the information that is on the face of the individual’s driver’s license, plus information on the individual’s sanctions, reportable vehicle accidents, and convictions. The certified ~~driver~~ abstract of operating record does not include the individual’s photograph, social security number, or medical or disability information.

610.4(2) To obtain a certified ~~driver~~ abstract of operating record, a ~~requester~~ requestor shall complete Form 431069, “Privacy Act Agreement for Request of Motor Vehicle Records,” and submit a written request it to the office of driver services. Form 431069 must be completed with all required attachments before the department will consider a request for a certified abstract of operating record. A requestor must attach a legible photocopy of the requestor’s driver’s license or nonoperator’s identification card to the form. The statutory fee, if applicable, shall accompany the ~~request form~~. The request must include sufficient information to identify the individual whose record is requested.

610.4(3) Personal information and highly restricted personal information protected by Iowa Code section 321.11 and the Driver’s Privacy Protection Act may be released only in the following situations:

a. The personal information was included in the request. The requestor has complied with each of the following requirements:

(1) Completed Form 431069 and submitted it to the office of driver services;

(2) Included all required attachments with the form, including a photocopy of the requestor’s driver’s license or nonoperator’s identification card; and

(3) Paid the fee, if applicable, for the requested record.

b. The requestor is authorized by the Driver’s Privacy Protection Act to use the information. In this situation, the department may require the requestor to: The department is satisfied that the requestor provided adequate and truthful information in Form 431069 and in the documents that the requestor attached to Form 431069.

~~(1) Provide proof of identity and authority to secure access to the information.~~

~~(2) Sign a certified statement or affidavit listing the specific reasons justifying access to the information and provide any proof necessary to establish relevant facts.~~

e. ~~The requestor demonstrates to the department that the requestor has obtained the express written consent of the individual to whom the personal information pertains. See 761—Chapter 611 for requirements regarding express written consent.~~

~~d. —The requester is the individual to whom the personal information pertains. The department shall require the requester to provide proof of identity.~~

610.4(4) The single-use restriction in Iowa Code subsection 321A.3(8) applies only to the certified abstract of operating records and to persons who are subject to the fee listed in Iowa Code subsection 321A.3(1).

610.4(5) Any person who obtains a certified abstract of operating record from the department is required to comply with Iowa Code section 321.11 and the Driver’s Privacy Protection Act.

ITEM 15. Amend rule ~~761—611.3(321)~~, definition of “Personal information,” as follows:

“*Personal information*” means information that identifies an individual, including the items listed in Iowa Code section 321.11 and 18 U.S.C. § 2725 of the Driver’s Privacy Protection Act adopted in rule 761—611.2(321). “Personal information” also includes information on an individual’s nonoperator’s identification card ~~number~~.

ITEM 16. Amend subrule 611.4(2) as follows:

611.4(2) Form ~~411069~~ 431069, “Privacy Act Agreement for Request of Motor Vehicle ~~Record(s)~~ Records,” must be completed by an applicant and approved by the department before the department may disclose personal information to the applicant without the express written consent of the individual to whom such information applies. On the form, the applicant shall indicate the provision of law that allows the release of personal information to that applicant. For the purpose of this subrule, “applicant” means a person who is not an authorized employee of the department.

ITEM 17. Amend rule 761—615.24(252J,261), parenthetical implementation statute, as follows:

761—615.24(252J,261,272D) Suspension upon receipt of a certificate of noncompliance.

ITEM 18. Adopt the following new subrule 615.24(3):

615.24(3) *From department of revenue.*

a. The department shall suspend a person’s Iowa-issued driver’s license upon receipt of a certification of noncompliance from the department of revenue.

b. The suspension shall begin 30 days after the department’s notice of suspension is served.

c. The suspension shall continue until receipt of a withdrawal of the certificate of noncompliance from the department of revenue.

d. The filing of an application pursuant to Iowa Code section 272D.9 stays the suspension pending the outcome of the district court hearing.

ITEM 19. Amend rule ~~761—615.24(252J,261,272D)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 252J.1, 252J.8, 252J.9, 261.126₂ ~~and 261.127₂~~, 272D.8 and 272D.9.

ITEM 20. Amend subrule 615.40(1) as follows:

615.40(1) Filed proof of financial responsibility under Iowa Code chapter 321A, when required, for all vehicles to be operated. The class of license issued will depend on the examinations passed and other qualifications of the applicant. Regardless of the class of license issued, the license shall be valid only for the operation of the ~~specific~~ motor vehicles covered under the proof of financial responsibility filed by the applicant.

ITEM 21. Amend rule 761—615.42(321) as follows:

761—615.42(321) Remedial driver improvement action under Iowa Code section 321.180B.

615.42(1) The department shall require remedial driver improvement action when a person holding an instruction permit, an intermediate license or a full-privilege driver’s license under Iowa Code section 321.180B is convicted of a moving violation or has a contributive accident and the violation or accident occurred during the term of the instruction permit or intermediate license.

615.42(2) Completion of remedial driver improvement action means ~~completion of a driver improvement interview with the department plus any suspension ordered by the department as a result~~

of the interview any or all of the following as determined by the department: suspension, safety advisory letter, additional restriction(s), vision screening, knowledge examination, and driving examination.

~~615.42(3) Participation in the driver improvement interview by both the licensee and the licensee's parent or guardian may be required. The interview shall be held by a reviewing officer appointed by the director of the office of driver services. The interview may include one or more of the following: a discussion of motor vehicle laws, a discussion of driving behavior, a vision screening, a knowledge examination, and a driving examination.~~

~~615.42(4) The department may take one or more of the following actions after the interview and shall take one or more of the following actions if the licensee fails to appear for or does not otherwise complete the interview:~~

~~a. — Execute an agreement with the licensee and the parent or guardian, setting out a plan to improve the licensee's driving behavior.~~

~~b. — Add appropriate license restrictions.~~

~~c. — Suspend the licensee's driving privilege.~~

~~615.42(5) 615.42(3) A suspension period under this rule shall be for no less than 30 days nor longer than one year. A person whose driving privilege has been suspended under this rule is not eligible for a temporary restricted license.~~

~~615.42(6) 615.42(4) Remedial driver improvement action or suspension under this rule terminates when a person attains the age of 18.~~

~~This rule is intended to implement Iowa Code section 321.180B.~~

ITEM 22. Amend subrule 640.6(4) as follows:

640.6(4) *Terminating the suspension upon filing of proof.* When future proof of financial responsibility is shown and the person is otherwise eligible for licensing, the department shall issue Form 431009, a suspension termination notice, to the person whose privileges were suspended under Iowa Code sections 321A.13, 321A.14, 321A.16 or 321A.17 or rules 640.5(321A) and 640.6(321A). To regain operating privileges, the person shall appear before an Iowa driver license examiner, pass the required examinations, and pay the required fees. The person's operating and registration privileges are restricted to the motor vehicles and coverage described in the notice covered under the proof of financial responsibility filed by the applicant.